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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,420	08/25/2003	William Paul Cook	2002-0848.02/4670-178	2788

7590 06/08/2005

LEXMARK INTERNATIONAL, INC.  
ATT: JOHN J. McARDLE, JR.  
740 WEST NEW CIRCLE ROAD  
LEXINGTON, KY 40550

EXAMINER

ROYER, WILLIAM J

ART UNIT	PAPER NUMBER
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2852

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

N/A

# Office Action Summary

Application No.

10/647,420

Applicant(s)

COOK ET AL.

Examiner

William J. Royer

Art Unit

2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-24 and 32-44 is/are allowed.
- 6) ☒ Claim(s) 1,25 and 45 is/are rejected.
- 7) ☒ Claim(s) 2-7,26-31 and 46-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/25/03 & 2/16/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Allowable Subject Matter***

Prosecution on the merits of this application is reopened on claims 1, 25 and 45 considered unpatentable for the reasons indicated below:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

Claims 1, 25 and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Ahn et al. Referring to Figures 3 and 4, Ahn et al disclose a print unit 200 (i.e., image forming apparatus) including: a photoreceptor drum 100 and transfer belt 140 (i.e., image forming system; image forming process member) configured to perform imaging operations; a waste toner system configured to accumulate waste toner resulting from the imaging operations; and a motor (not shown) shared by the image forming system and waste toner system; the waste toner system including: wasted toner container 400 (i.e., waste toner container) to accumulate waste toner; and a dispersing member 430 (i.e., toner distributing member) that is driven by the shared motor to distribute accumulated waste toner. In particular, it is noted that in column 5, lines 44-46, it is

disclosed that a first gear 440 for rotating the dispersing member may be connected to a driving device (not shown) (i.e., a shared motor) for driving the photoreceptor drum and the transfer belt. Lastly, it is noted that the claimed method of operation is anticipated by the apparatus as discussed above because the apparatus as discussed above operates in the same manner as the method claimed by the applicant.

***Allowable Subject Matter***

Claims 2-7, 26-31 and 46-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 8-24 and 32-44 remain allowable over the prior art of record.

Applicant is advised that the Notice of Allowance mailed April 27, 2005 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Royer whose telephone number is (571) 272-2140. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur T. Grimley can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William J. Royer  
Primary Examiner  
Art Unit 2852

wjr  
May 31, 2005